

House File 368 - Introduced

HOUSE FILE 368

BY MASCHER

A BILL FOR

1 An Act relating to private instruction.

2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 261E.8, subsection 2, Code 2017, is
2 amended to read as follows:

3 2. Students from accredited nonpublic schools and students
4 receiving competent private instruction ~~or independent private~~
5 ~~instruction~~ under chapter 299A may access the program through
6 the school district in which the accredited nonpublic school or
7 private institution is located.

8 Sec. 2. Section 299.1, subsection 1, Code 2017, is amended
9 to read as follows:

10 1. Except as provided in section 299.2, the parent,
11 guardian, or legal or actual custodian of a child who is of
12 compulsory attendance age shall cause the child to attend some
13 public school or an accredited nonpublic school, or place
14 the child under competent private instruction ~~or independent~~
15 ~~private instruction~~ in accordance with the provisions of
16 chapter 299A, during a school year, as defined under section
17 279.10.

18 Sec. 3. Section 299.1B, Code 2017, is amended to read as
19 follows:

20 **299.1B Failure to attend — driver's license.**

21 A person who ~~is of compulsory attendance age who does~~
22 ~~not meet the requirements for an exception under section~~
23 ~~299.2, who~~ does not attend a public school or an accredited
24 nonpublic school, who is not receiving competent private
25 instruction ~~or independent private instruction~~ in accordance
26 with the provisions of chapter 299A, and who does not attend
27 an alternative school or adult education classes, shall not
28 receive an intermediate or full driver's license until age
29 eighteen.

30 Sec. 4. Section 299.4, subsection 1, Code 2017, is amended
31 to read as follows:

32 1. The parent, guardian, or legal custodian of a child who
33 is of compulsory attendance age, who places the child under
34 competent private instruction under either section 299A.2 or
35 299A.3, not in an accredited school or a home school assistance

1 program operated by a school district or accredited nonpublic
 2 school, shall furnish a report in duplicate on forms provided
 3 by the public school district, to the district by September 1
 4 of the school year in which the child will be under competent
 5 private instruction. The secretary shall retain and file
 6 one copy and forward the other copy to the district's area
 7 education agency. The report shall state the name and age of
 8 the child, the period of time during which the child has been
 9 or will be under competent private instruction for the year,
 10 an outline of the course of study, texts used, and the name
 11 and address of the instructor. The parent, guardian, or legal
 12 custodian of a child, who is placing the child under competent
 13 private instruction for the first time, shall also provide the
 14 district with evidence that the child has had the immunizations
 15 required under [section 139A.8](#), and, if the child is elementary
 16 school age, a blood lead test in accordance with section
 17 135.105D. The term "*outline of course of study*" shall include
 18 subjects covered, lesson plans, and time spent on the areas of
 19 study.

20 Sec. 5. Section 299.6A, subsection 1, Code 2017, is amended
 21 to read as follows:

22 1. In lieu of a criminal proceeding under [section 299.6](#),
 23 a county attorney may bring a civil action against a parent,
 24 guardian, or legal or actual custodian of a child who is of
 25 compulsory attendance age, has not completed educational
 26 requirements, and is truant, if the parent, guardian, or legal
 27 or actual custodian has failed to cause the child to attend a
 28 public school or an accredited nonpublic school, or to place
 29 the child under competent private instruction ~~or independent~~
 30 ~~private instruction~~ in the manner provided in [this chapter](#). If
 31 the court finds that the parent, guardian, or legal or actual
 32 custodian has failed to cause the child to attend as required
 33 in [this section](#), the court shall assess a civil penalty of not
 34 less than one hundred but not more than one thousand dollars
 35 for each violation established.

1 Sec. 6. Section 299.8, Code 2017, is amended to read as
2 follows:

3 **299.8 "Truant" defined.**

4 Any child of compulsory attendance age who fails to attend
5 school as provided in [this chapter](#), or as required by the
6 school board's or school governing body's attendance policy,
7 or who fails to attend competent private instruction ~~or~~
8 ~~independent private instruction~~ under [chapter 299A](#), without
9 reasonable excuse for the absence, shall be deemed to be a
10 truant. A finding that a child is truant, however, shall not
11 by itself mean that the child is a child in need of assistance
12 within the meaning of [chapter 232](#) and shall not be the sole
13 basis for a child in need of assistance petition.

14 Sec. 7. Section 299.11, subsection 1, Code 2017, is amended
15 to read as follows:

16 1. The truancy officer may take into custody without
17 warrant any apparently truant child and place the child
18 in the charge of the school principal, or the principal's
19 designee, designated by the board of directors of the school
20 district in which the child resides, or in the charge of any
21 nonpublic school or any authority providing competent private
22 instruction ~~or independent private instruction~~ as defined in
23 section 299A.1, designated by the parent, guardian, or legal
24 or actual custodian; but if it is other than a public school,
25 the instruction and maintenance of the child shall be without
26 expense to the school district. If a child is taken into
27 custody under [this section](#), the truancy officer shall make
28 every reasonable attempt to immediately notify the parent,
29 guardian, or legal or actual custodian of the child's location.

30 Sec. 8. Section 299.12, subsection 2, Code 2017, is amended
31 to read as follows:

32 2. [This section](#) is not applicable to a child who is
33 receiving competent private instruction ~~or independent private~~
34 ~~instruction~~ in accordance with the requirements of chapter
35 299A. If a child is not in compliance with the attendance

1 requirements established under [section 299.1](#), and has not
 2 completed educational requirements through the sixth grade,
 3 and the school has used every means available to assure the
 4 child does attend, the school truancy officer shall contact
 5 the child's parent, guardian, or legal or actual custodian to
 6 participate in an attendance cooperation meeting. The parties
 7 to the attendance cooperation meeting may include the child
 8 and shall include the child's parent, guardian, or legal or
 9 actual custodian and the school truancy officer. The school
 10 truancy officer contacting the participants in the attendance
 11 cooperation meeting may invite other school officials, a
 12 designee of the juvenile court, the county attorney or the
 13 county attorney's designee, or other persons deemed appropriate
 14 to participate in the attendance cooperation meeting.

15 Sec. 9. Section 299A.1, Code 2017, is amended to read as
 16 follows:

17 **299A.1 ~~Competent private~~ Private instruction and independent**
 18 **~~private instruction.~~**

19 1. The parent, guardian, or legal custodian of a child of
 20 compulsory attendance age who places the child under private
 21 instruction shall provide, unless otherwise exempted, competent
 22 private instruction ~~or independent private instruction~~ in
 23 accordance with [this chapter](#). A parent, guardian, or legal
 24 custodian of a child of compulsory attendance age who places
 25 the child under private instruction which is not competent
 26 private instruction ~~or independent private instruction~~,
 27 or otherwise fails to comply with the requirements of this
 28 chapter, is subject to the provisions of sections 299.1 through
 29 299.4 and the penalties provided in [section 299.6](#).

30 2. For purposes of [this chapter](#) and [chapter 299](#):

31 a. "*Competent private instruction*" means private instruction
 32 provided on a daily basis for at least one hundred forty-eight
 33 days during a school year, to be met by attendance for at
 34 least thirty-seven days each school quarter, by or under the
 35 supervision of a licensed practitioner in the manner provided

1 under section 299A.2, or a parent, guardian, or legal custodian
2 under section 299A.3, which results in the student making
3 adequate progress.

4 ~~*b.* "Independent private instruction" means instruction that~~
5 ~~meets the following criteria:~~

6 ~~(1) Is not accredited.~~

7 ~~(2) Enrolls not more than four unrelated students.~~

8 ~~(3) Does not charge tuition, fees, or other remuneration for~~
9 ~~instruction.~~

10 ~~(4) Provides private or religious-based instruction as its~~
11 ~~primary purpose.~~

12 ~~(5) Provides enrolled students with instruction in~~
13 ~~mathematics, reading and language arts, science, and social~~
14 ~~studies.~~

15 ~~(6) Provides, upon written request from the superintendent~~
16 ~~of the school district in which the independent private~~
17 ~~instruction is provided, or from the director of the department~~
18 ~~of education, a report identifying the primary instructor,~~
19 ~~location, name of the authority responsible for the independent~~
20 ~~private instruction, and the names of the students enrolled.~~

21 ~~(7) Is not a nonpublic school and does not provide competent~~
22 ~~private instruction as defined in this subsection.~~

23 ~~(8) Is exempt from all state statutes and administrative~~
24 ~~rules applicable to a school, a school board, or a school~~
25 ~~district, except as otherwise provided in chapter 299 and this~~
26 ~~chapter.~~

27 ~~*c.* b. "Private instruction" means instruction using a~~
28 ~~plan and a course of study in a setting other than a public or~~
29 ~~organized accredited nonpublic school.~~

30 Sec. 10. Section 299A.3, unnumbered paragraph 1, Code 2017,
31 is amended to read as follows:

32 A parent, guardian, or legal custodian of a child of
33 compulsory attendance age providing competent private
34 instruction to the child ~~may~~ shall meet all of the following
35 requirements:

1 Sec. 11. Section 299A.11, Code 2017, is amended to read as
2 follows:

3 **299A.11 Student records confidential.**

4 Notwithstanding any provision of law or rule to the
5 contrary, personal information in records regarding a child
6 receiving competent private instruction ~~or independent private~~
7 ~~instruction~~ pursuant to [this chapter](#), which are maintained,
8 created, collected, or assembled by or for a state agency,
9 shall be kept confidential in the same manner as personal
10 information in student records maintained, created, collected,
11 or assembled by or for a school corporation or educational
12 institution in accordance with [section 22.7, subsection 1](#).

13 Sec. 12. Section 321.178, subsection 1, paragraph c, Code
14 2017, is amended to read as follows:

15 c. Every public school district in Iowa shall offer
16 or make available to all students residing in the school
17 district, or Iowa students attending a nonpublic school or
18 receiving competent private instruction ~~or independent private~~
19 ~~instruction as defined in [section 299A.1](#)~~, in the district, an
20 approved course in driver education. The receiving district
21 shall be the school district responsible for making driver
22 education available to a student participating in open
23 enrollment under [section 282.18](#). The courses may be offered
24 at sites other than at the public school, including nonpublic
25 school facilities within the public school districts. An
26 approved course offered during the summer months, on Saturdays,
27 after regular school hours during the regular terms or partly
28 in one term or summer vacation period and partly in the
29 succeeding term or summer vacation period, as the case may
30 be, shall satisfy the requirements of [this section](#) to the
31 same extent as an approved course offered during the regular
32 school hours of the school term. A student who successfully
33 completes and obtains certification in an approved course in
34 driver education or an approved course in motorcycle education
35 may, upon proof of such fact, be excused from any field test

1 which the student would otherwise be required to take in
2 demonstrating the student's ability to operate a motor vehicle.
3 A student shall not be excused from any field test if a parent,
4 guardian, or instructor requests that a test be administered.
5 A final field test prior to a student's completion of an
6 approved course shall be administered by a person qualified
7 as a classroom driver education instructor and certified to
8 provide street and highway driving instruction. A person
9 qualified as a classroom driver education instructor but not
10 certified to provide street and highway driving instruction
11 may administer the final field test if accompanied by another
12 person qualified to provide street and highway driving
13 instruction.

14 Sec. 13. Section 321.180B, subsection 2, paragraph a, Code
15 2017, is amended to read as follows:

16 a. The department may issue an intermediate driver's
17 license to a person sixteen or seventeen years of age who
18 possesses an instruction permit issued under [subsection 1](#) or
19 a comparable instruction permit issued by another state for a
20 minimum of twelve months immediately preceding application,
21 and who presents an affidavit signed by a parent, guardian, or
22 custodian on a form to be provided by the department that the
23 permittee has accumulated a total of twenty hours of street
24 or highway driving of which two hours were conducted after
25 sunset and before sunrise and the street or highway driving was
26 with the permittee's parent, guardian, custodian, instructor,
27 a person certified by the department, or a person at least
28 twenty-five years of age who had written permission from a
29 parent, guardian, or custodian to accompany the permittee, and
30 whose driving privileges have not been suspended, revoked,
31 or barred under [this chapter](#) or [chapter 321J](#) during, and who
32 has been accident and violation free continuously for, the
33 six-month period immediately preceding the application for an
34 intermediate license. An applicant for an intermediate license
35 must meet the requirements of [section 321.186](#), including

1 satisfactory completion of driver education as required in
 2 section 321.178 ~~or 321.178A~~, and payment of the required
 3 license fee before an intermediate license will be issued. A
 4 person issued an intermediate license must limit the number of
 5 passengers in the motor vehicle when the intermediate licensee
 6 is operating the motor vehicle to the number of passenger
 7 safety belts. In addition, unless waived by the person's
 8 parent or guardian at the time the intermediate license is
 9 issued, for the first six months following issuance of the
 10 license, a person issued an intermediate license must limit the
 11 number of unrelated minor passengers in the motor vehicle when
 12 the intermediate licensee is operating the motor vehicle to
 13 one, except when the intermediate licensee is accompanied in
 14 accordance with subsection 1. For purposes of this subsection,
 15 "unrelated minor passenger" means a passenger who is under
 16 eighteen years of age and who is not a sibling of the driver, a
 17 stepsibling of the driver, or a child who resides in the same
 18 household as the driver. The department shall prescribe the
 19 form for waiver of the six-month restriction on unrelated minor
 20 passengers, which may be in an electronic format, and shall
 21 designate characteristics for the intermediate license that
 22 shall distinguish between an intermediate license that includes
 23 the six-month restriction on unrelated minor passengers and
 24 an intermediate license that does not include the six-month
 25 restriction on unrelated minor passengers.

26 Sec. 14. REPEAL. Section 321.178A, Code 2017, is repealed.

27 EXPLANATION

28 The inclusion of this explanation does not constitute agreement with
 29 the explanation's substance by the members of the general assembly.

30 This bill eliminates changes made relating to private
 31 instruction, including independent private instruction and
 32 driver education by a teaching parent, made in 2013 Iowa Acts,
 33 chapter 121, divisions X, XII, and XIII.

34 The bill requires that a parent, guardian, or legal
 35 custodian of a child of compulsory attendance age placed under

1 competent private instruction by a parent, guardian, or legal
2 custodian submit to the school district of residence a report
3 that states the name and age of the child and the period of
4 time the child has been or will be under competent private
5 instruction and includes an outline of course study and texts
6 used, and the name and address of the instructor, and evidence
7 of immunization. The bill also requires the parent, guardian,
8 or legal custodian to ensure that the child is evaluated
9 annually, and to ensure that the results of the child's annual
10 evaluation are reported to the school districts.

11 The bill eliminates language that establishes an option for
12 independent private instruction under Code chapter 299A and
13 makes corresponding changes.

14 The bill modifies the definition of "competent private
15 instruction" to include instruction by or under the supervision
16 of a parent, guardian, or legal custodian.

17 The bill also repeals Code section 321.178A, which allows a
18 parent, guardian, or legal custodian who is providing competent
19 private instruction to a student to teach the student driver
20 education provided the parent, guardian, or legal custodian has
21 a valid driver's license that permits unaccompanied driving and
22 has a clear driving record for the previous two years.